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August 5, 2005

National Organic Standards Board
c/o Arthur Neal
Room 4008, South Building
1400 Independence Avenue, SW
Washington, DC 20250-0001

RE: Livestock Committee Recommendations for Guidance on Pasture Requirements

On behalf of Farm Sanctuary, the nation's largest non-profit organization dedicated to the protection of farmed animals, I wish to comment on the draft guidance document, dated July 12, 2005, by the NOSB Livestock Committee on the pasture requirements of the National Organic Program (NOP).

Support for Rulemaking Recommendation

First, we would like to express our support for the prior recommendation, passed by the NOSB at its March meeting, that the NOP rules be changed to clarify the "stage of production" exception for ruminants. Lactation of dairy cows should not be considered a stage of production that warrants confinement from pasture. To do so makes the NOP requirement of pasture grazing virtually meaningless for the thousands of organically raised dairy animals in the U.S.

Support for Guidance Document with Exception

Farm Sanctuary generally supports the Livestock Committee's most recent draft guidance on the pasture requirement for ruminants. However, we prefer that the recommendation regarding the Organic System Plan – that it provide grazed feed greater than 30% dry matter intake on an average daily basis during the growing season but not less than 120 days – be increased and addressed by rulemaking. We further urge that NOSB seriously consider recommending a maximum stocking density (such as three cows per acre) in the rulemaking, as was suggested at the Board's March 2005 meeting.

Current NOP regulations are vague and non-specific, at least in regards to animal care and handling. Standards of practice, such as those proposed for grazed feed, belong in regulation, not a guidance document. Guidance documents are not enforceable. Organic certifying agents will be unable to deny certification to new producers who fail to meet the recommended goal, and the USDA will be unable to suspend or revoke the certification of existing producers who fail to maintain the goal.

Access to Outdoors Rulemaking Needed

At the March NOSB meeting, Mr. Richard Mathews of USDA-AMS suggested that the Board reconsider the issue of access to the outdoors. Mathews remarked that some producers are using loopholes in the regulations (specifically those allowing temporary confinement under certain situations) to routinely deny animals outdoor access of any kind. "For example, you could have broiler chickens who never see the light of day, and I know you don't want that to happen, but it is happening" Mathews noted.

Farm Sanctuary can provide evidence that what Mathews described is indeed happening. Last year, Farm Sanctuary sent a brief questionnaire about "access to the outdoors" to 24 of the 56 USDA-accredited certifying agents. Responses were received from 14 certifiers. All responding certifiers indicated they require livestock producers, including egg and chicken producers, provide animals with access to the outdoors. However, a range of answers were given to questions about what constituted access to the outdoors for poultry and whether birds could be confined for months at a time due to environmental conditions. For example, eight of the 14 certifiers defined access to the outdoors as an open-air barn with one or more open exits. One certifier noted barns must offer at least one exit for every 200 birds. Four certifiers stated exits must remain open during daylight hours, while one certifying agent indicated that exits need only be open 1-2 hours per day. One certifier said the outdoor area must be large enough to accommodate two-thirds of the flock at one time. Another certifier stated that producers in their state were required to provide outdoor access only four months of the year, from May to September. When asked whether it was conceivable that birds could be confined for 3-4 months due to weather, some certifiers responded "yes," while others responded "probably not" or "no."

Clearly, the previous guidance document on outdoor access is inadequate, and there is currently little consistency in how individual certifying agents enforce the requirement. As observed by Mr. Mathew at the March meeting, producers use "101 reasons, and probably even more," for why they can't put their animals out. Another guidance document on this subject is not the answer. What exactly constitutes "access", as well as the conditions under which animals can be temporarily confined, must be clarified in the NOP regulations, and we strongly urge the NOSB to make an appropriate recommendation to that effect to the USDA.

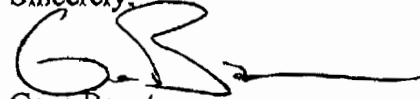
Improved Oversight of Certifying Agents Needed

It is apparent that individual certifying agents are regularly allowing producers to deny access to the outdoors to birds and access to pasture grazing to ruminants. USDA should have been aware of this abuse of the organic program and long ago taken steps to end it. We encourage the NOSB to recommend to the USDA that the agency improve its oversight of certifying agents by making random visits to verify producer compliance with the NOP regulations.

Applying NOP regulations in an inconsistent manner is unfair and places farmers who meet the standards at a competitive disadvantage. It also erodes the integrity of the organic label.

We commend the NOSB for taking action on this issue and thank you for considering our remarks.

Sincerely,

A handwritten signature in black ink, appearing to be 'GB' followed by a long horizontal stroke.

Gene Bauston
President